



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 11/02/2020

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PRESENT

The Hon`ble Mr.Justice G.R.SWAMINATHAN

CRL OP(MD) . No.7013 of 2019

1. P.Kanagamoorthi
2. K.Kaladevi

... Petitioners/Accused No.1 & 2

Vs

State Rep.by
The Inspector of Police,
Thillai Nagar Police Station,
Trichy District.
in Crime No.229/2019

... Respondent/Complainant

For Petitioners : Mr.J.Jeyakumaran, Advocate

For Respondent : Mr.A.Robinson,
Government Advocate (Crl.Side)

For Intervenor : Mr.K.Sivabalan, Advocate

: Mr.D.Balamurga Pandi, Counsel for
Vardharajan,

PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :-

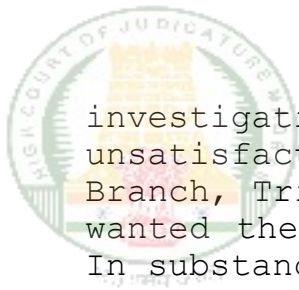
For Anticipatory Bail in Crime No.229 of 2019 on the file of the Respondent Police.

ORDER : The Court made the following order :-

Heard the learned counsel appearing for the petitioners and the learned Government Advocate(Crl. Side) appearing for the respondent.

2. The petitioners seek anticipatory bail in Crime No.47 of 2019 registered on the file of the Inspector of Police, City Crime Branch, for the offence under Section 420 of IPC.

3. Earlier, the case was registered in Crime No.229 of 2019 on the file of the Thillai Nagar Police Station. Since the



investigation by the Thillai Nagar Police Station was absolutely unsatisfactory, it was directed to be transferred to the City Crime Branch, Trichy. This Court heard this case on several occasions and wanted the parties to amicably resolve the issue among themselves. In substance, the case is this.

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4.The petitioners Kanagamoorthi and Kaladevi are the owners of the land. One Varadharajan, Managing Director of Lavanya Property Developers Private limited is the builder. Kanagamoorthi and Varadharajan entered into the memorandum of understanding. They were to promote the block of apartments by way of joint venture. The defacto complainant Maheswaran entered into construction agreement with Lavanya Property Developers Private limited run by Varadharajan. Kanagamoorthi executed a sale deed dated 30.10.2014 in favour of Maheswaran conveying 255 square feet of undivided share in the property. The defacto complainant Maheswaran remitted the entire consideration amount of Rs.20,21,000/- to Lavanya Property Developers Private limited.

5.It is seen that even in the sale deed dated 30.10.2014 executed by Kanagamoorthi in favour of Maheswaran, it has been mentioned that Kanagamoorthi has received his consideration directly from the Lavanya Property Developers private limited. In other words, even though Maheswaran is said to be the purchaser and Kanagamoorthi is recorded as vendor, Maheswaran did not make any payment directly to Kanagamoorthi. Kanagamoorthi had stated in the sale deed that he had received the entire sale consideration from Lavanya Property Developers Private limited. It appears that due to dispute arose between Kanagamoorthi and Varadharajan, _the project has hit a road block. Even though Maheswaran has paid the entire amount way back in the year 2014, till date he has not been allotted the block in question. That is why, the case on hand came to be registered. This Court made it clear that kanagamoorthi and Varadharajan should themselves settle the issue with Maheswaran. With this specific direction, the case was adjourned.

6.Today when the matter was taken up for hearing, the learned counsel appearing for Varadharajan stated that he had already paid a sum of Rs.10,36,000/- to Maheswaran.

7.The learned counsel appearing for the intervenor/ Maheswaran admits the receipt of the said amount. The learned counsel appearing for the intervenor stated that if Kanagamoorthi pays a sum of Rs.10,00,000/- more, he will execute relinquishment deed giving up his rights in the entire property.

8.But then, Kanagamoorthi is not willing to make the said payment. Varadharajan has shown his bonafide by settling his liability as far as the complainant is concerned. This Court would expect the first petitioner to do likewise. In this case, the complainant had sunk his hard earned money of Rs.20,00,000/-



six years ago and has been waiting for an apartment. Since the first petitioner is not ready to make any payment to the defacto complainant, the complainant cannot be caught in the crossfire between Kanagamoorthi and Varadharajan. Since Kanagamoorthi has not shown his bonafide, this is not a fit case for grant of anticipatory bail to the first petitioner. The second petitioner is the wife of the first petitioner. There are no serious allegations against the second petitioner. Anticipatory bail is granted to the second petitioner. This petition is dismissed as regards the first petitioner.

9.The learned counsel appearing for Varadharajan would state that the amount was paid to the account of Lavanya and Anchajana maintained with HDFC Trichy and KVB Trichy and that, it was being jointly operated by Varadharajan and Kanagamorthi. However, the learned counsel appearing petitioner would state that Kanagamoorthi did not operate the said amount.

10. In view of the above, I am inclined to grant anticipatory bail to the second petitioner with certain conditions. Accordingly, the second petitioner is ordered to be released on bail in the event of arrest or on her appearance before the learned Judicial Magistrate No.IV, Trichy, and on her executing a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned and on further condition that the second petitioner shall appear before the respondent police as and when required for interrogation. The second petitioner shall comply with the conditions stipulated under Section 438 Cr.P.C scrupulously.

11. The second petitioner shall appear before the concerned Magistrate within a period of 15 days from the date on which the order copy made ready, failing which, the petition for anticipatory bail shall stand dismissed.

sd/-

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1. THE JUDICIAL MAGISTRATE NO.IV, TRICHY.
2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TRICHY DISTRICT.



3. THE INSPECTOR OF POLICE,
THILLAI NAGAR POLICE STATION, TRICHY DISTRICT.

4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

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+1 CC to M/s.J.JEYAKUMARAN, Advocate (SR-2912[I] dated 12/02/2020)

ORDER

IN

CRL OP(MD) No.7013 of 2019

Date :11/02/2020

MS/PN/SAR-4/19.02.2020/4P.6C